

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.04CV-11557-RCL

JOSEPH BOOK,)
<u>Plaintiff</u>)
)
v.)
)
DEPARTMENT OF STATE POLICE,)
COMMONWEALTH OF MASSACHUSETTS,)
And STATE TROOPER KURT M. FERRAZANI,)
STATE TROOPER SMITH, STATE TROOPER)
MACKENZIE and STATE TROOPER)
HENNIGAN,)
<u>Defendants</u>)

DEFENDANTS' MOTION TO BE EXCUSED
FROM FILING A PRE-TRIAL MEMORANDUM

Now come State Trooper Kurt M. Ferrazani, State Trooper Smith, State Trooper MacKenzie and State Trooper Hennigan, Defendants in the above-entitled action, and hereby respectfully move this Court to be excused from submitting a pre-trial memorandum for the pre-trial conference scheduled for Thursday, June 8, 2006.

In support of this Motion, Defendants state that discovery remains to be completed before a meaningful pre-trial conference may be conducted.

Defendants have been unable to obtain automatic discovery from the Plaintiff for an extended period of time. The Parties had agreed to first exchange the discovery generated in the lawsuit arising from when the Plaintiff ran over a motorcyclist, and which in turn resulted in his arrest. Once that information was provided to the Defendants, the Plaintiff and/or his Counsel consistently postponed the Plaintiff's deposition due to the illness of Counsel or the Plaintiff.

Defendants' Counsel was recently contacted by anticipated successor counsel for Plaintiff who sought a professional courtesy to again postpone Plaintiff's deposition. It was postponed but no new counsel has appeared. Current Counsel for the Plaintiff has filed a Motion to Withdraw.

The inability to complete discovery or have a meaningful conversation with Plaintiff's attorney has inhibited the Parties' ability to complete a pre-trial memorandum.

Respectfully submitted,

For Defendant Ferrazzani, Smith,
MacKenzie and Hennigan,
By their attorneys,

LAW OFFICES OF TIMOTHY M. BURKE

/s/ Joseph P. Kittredge
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CERTIFICATE OF SERVICE

I hereby certify that on this date this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants as of June 7, 2006.

Date: 06/07/06

/s/ Joseph P. Kittredge
Joseph P. Kittredge